

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
APRIL 15, 2019**

A regular meeting of the Lapeer City Commission was held April 15, 2019 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

ROLL CALL

Present: Commissioners Atwood, Bennett, Bostick-Tullius, Osentoski.
Absent: Mayor Sprague (excused), Commissioner Marquardt (excused).

City Manager: Dale Kerbyson, present.
City Attorney: Michael Nolan, present.

City Manager Dale Kerbyson led the Pledge of Allegiance.

Acting Mayor.

77 2019 04-15

Moved by Bennett. Seconded by Osentoski.

Approve Commissioner Bostick-Tullius to serve as Acting Mayor for the April 15, 2019 City Commission meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

AGENDA APPROVAL

78 2019 04-15

Moved by Bennett. Seconded by Osentoski.

Approve the Agenda for April 15, 2019 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

MINUTES

79 2019 04-15

Moved by Bennett. Seconded by Osentoski.

Approve the minutes of the Regular meeting held April 1, 2019 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Minutes from various Boards and Commissions were received into record.

PUBLIC COMMENTS

Jenny Burkhardt, Wilder Road, gave invocation.

CONSENT AGENDA

80 2019 04-15

Moved by Osentoski. Seconded by Atwood.

Approve the Consent Agenda for April 15, 2019 resulting in the following:

1. *Special Event Request from Albar Industries Inc., Albar 50th Anniversary, Saturday, June 8, 2019, 780 Whitney Drive; event not open to the public.*
2. *Special Event Request from Center for the Arts of Greater Lapeer, 50th Anniversary Party of Woodstock, Saturday, May 4, 2019, 5 PM – 12 AM using a section of Court Street north of Nepessing Street, pending State approved liquor license.*
3. *Special Event Request from Lapeer Optimist Club, Nightmare on Nepessing, October 12-13, 2019; downtown with street closures on Nepessing, between Cedar and Court Streets; Event setup begins Friday, October 11th; contingent upon receipt of current insurance.*
4. *Special Event Request from Ray C's Harley-Davidson of Lapeer, Ray C's Food*

Truck Rally, 11 AM – 7 PM on April 20th, May 11th, June 29th, July 27th, August 10th and September 14th, 2019 at the Ray C's dealership located at 1491 South Lapeer Road.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

BILL LISTING FOR APRIL 15, 2019

81 2019 04-15

Moved by Osentoski. Seconded by Bennett.

Approve the Bill Listing for April 15, 2019 in the amount of \$809,526.87.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

Arbor Day Proclamation.

82 2019 04-15

Moved by Atwood. Seconded by Osentoski.

Approve the Arbor Day Proclamation as presented.

CITY OF LAPEER ARBOR DAY PROCLAMATION

WHEREAS, In 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, This holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, Trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, Trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, Trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, Trees, wherever they are planted, are a source of joy and spiritual renewal,

THEREFORE, BE IT RESOLVED that I, William J. Sprague, Mayor of the City of Lapeer and the Lapeer City Commission do hereby declare April 26, 2019 as Arbor Day in the City of Lapeer and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations. Dated this 15th day of April, 2019.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED. PROCLAMATION DECLARED ADOPTED.

Optimist Club Beer Tent Resolution.

83 2019 04-15

Moved by Osentoski. Seconded by Atwood.

Approve City of Lapeer Resolution Lapeer Optimist Club as presented.

RESOLVED: that the request to authorize the Lapeer Optimist Club to use the City sidewalks and Cedar Street north of Nepessing Street for their beer tent on Friday, August 16, 2019 through Sunday, August 18, 2019, be approved.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

PUBLIC HEARINGS

None.

ADMINISTRATIVE REPORTS

Downtown Outdoor Dining Area Right-of-Way Licenses.

84 2019 04-15

Moved by Atwood. Seconded by Bennett.

Approve Right-of-Way License applications for the following businesses:

1. Blondie's Sweet Boutique/Dagwood's Deli – 193 W. Nepessing Street
2. Popovich Properties, LLC – 393 W. Nepessing Street (Vinyl Bar & Grill)
3. Fat Boys Bar & Grill – 10 E. Nepessing Street
4. Tilted Axis Brewery – 303 W. Nepessing Street (Permanent Enclosure)
5. Tilted Axis Brewery – 303 W. Nepessing Street (Seasonal Enclosure)
6. Woodchips, LLC – 315 W. Nepessing Street (Permanent Enclosure)
7. Woodchips, LLC – 323 W. Nepessing Street (Seasonal Enclosure)

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

Ordinance Amendment – Chapter 25 Public Housing.

Commissioner Osentoski introduced amendments to Chapter 25 (Public Housing) of the General Ordinances of the City of Lapeer.

CHAPTER 25 PUBLIC HOUSING

THE CITY OF LAPEER ORDAINS:

25.01 An Ordinance to create a Municipal Housing Commission for the City of Lapeer (the "Commission") to purchase, acquire, construct, maintain, operate, improve, extend or repair housing facilities and to eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare of the City of Lapeer, Michigan:

- (A) Pursuant to Act 18 of the Public Acts of 1933, as amended, there is hereby established a Housing Commission, hereinafter called the Lapeer Housing Commission (sometimes referred to hereafter as "LHC"), with authority to purchase, acquire, construct, maintain, operate, improve, extend and repair housing facilities within the City of Lapeer and to eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare of the said City.
- (B) The Commission shall consist of five (5) members who shall be appointed by the Mayor of the City of Lapeer. The term of office of the members of the first Commission appointed hereunder shall be appointed for terms of one (1) year for one member, two (2) years for one member, three (3) years for one member, four (4) years for one member, and five (5) years for one member. The term of office of members of the Commission shall be five (5) years.

One member of the commission shall be a tenant of public or subsidized housing.

Members of the Commission shall serve without compensation and may be removed from office by the Mayor. Any vacancy in office shall be filled by appointment by the Mayor for the remainder of the unexpired term.

- (C)** The Commission shall be a public body corporate. Except as otherwise provided in Public Act 18, the commission may do all of the following:
1. Sue and be sued in any court of this state.
 2. Form or incorporate nonprofit corporations under the laws of this state for any purpose not inconsistent with the purposes for which the commission was formed.
 3. Serve as a shareholder or member of a qualified nonprofit corporation organized under the laws of this state.
 4. Authorize, approve, execute, and file with the Michigan Department of Commerce those documents that are appropriate to form and continue one or more nonprofit corporations.
 5. Form or incorporate for-profit corporations, partnerships, and companies under the laws of this state for any purpose not inconsistent with the purposes for which the commission was formed.
- (D)** The Commission shall meet at regular intervals after public notice of the time and place of such meeting and all meetings of the Commission shall be open to the public. The Commission shall adopt by-laws and its own rules of procedure not inconsistent with the provisions of Act 18 or of this Ordinance, and shall keep a record of its proceedings. Three (3) members of the Commission shall constitute a quorum for the transaction of its business and a Chairman and a Vice Chairman shall be elected by the Commission. The said Commission may employ and fix the compensation of a Director who may also serve as Secretary and such other employees or officers as shall be necessary. The Commission shall prescribe the duties of all its officers and employees and shall transfer to its officers and Director those functions and that authority which the Commission has prescribed. The Commission may employ engineers, architects, attorneys, accountants, and other professional consultants as necessary. The Commission may solicit, accept, and enter into agreements relating to grants from any public or private source, including the state or federal government or any agency of the state or federal government, and may carry out any federal or state program related to the purposes for which the commission is created.
- (E)** The Commission shall have the following enumerated powers and duties per Section 7 of Public Act 18:
1. To determine in what areas of the City of Lapeer it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals, and/or welfare;
 2. To purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest therein, or acquire the same by gift, bequest or under the power of eminent domain; to own, hold, clear and improve property; to engage in or to contract for the design and construction, reconstruction, alteration, improvement, extension, and/or repair of any housing project or projects or parts thereof; to lease and/or operate any housing project or projects;
 3. To control and supervise all parks and playgrounds forming a part of such housing development but may contract with existing departments of the City of Lapeer for operation or maintenance of either or both;
 4. To establish and revise rents of any housing project or projects, but shall rent all property for such sums as will make them self-supporting,

including all charges for maintenance and operation, for principal and interest on loans and bonds, and for taxes;

5. To rent only to such tenants as are unable to pay for more expensive housing accommodations;
 6. To call upon other departments for assistance in the performance of its duties, but said departments shall be reimbursed for any added expense incurred therefore.
 7. It shall have such other powers relating to said housing facilities project as may be prescribed by ordinance or resolution of the City of Lapeer or as may be necessary to carry out the purposes of this act.
- (F)** No member of the Lapeer Housing Commission or any of its officers, employees, or staff shall have any interest directly or indirectly in any contract for property, materials or services to be acquired by the Commission.
- (G)** The Commission shall make an annual report of its activities to the City of Lapeer and shall make other reports as the City may from time to time require. The Commission shall also report any action of the commission taken under Section 6 of Public Act 18 in a manner sufficient to allow the City of Lapeer Commission to exercise the authority granted under this act to supervise the activities of the Commission.
- (H)** Municipal housing commission; deeds, mortgages, contracts, leases, purchases.
1. All deeds, mortgages, contracts, leases, purchases, or other agreements regarding real property, including agreements to acquire or dispose of real property, shall be approved and executed in the name of the Lapeer Housing Commission. Contracts or leases with tenants or facility managers shall be executed by and in the name of the Lapeer Housing Commission.
 2. Contracts for the purchase of necessary materials and contracts related to the powers and duties of the commission under section 12 of Public Act 18 do not need to be approved and executed by the City of Lapeer Commission.
 3. The City of Lapeer may transfer property to the commission for use by the commission for a purpose authorized by this act. The transfer of property to the commission, including property taken under the City of Lapeer's power of eminent domain, shall be considered necessary for public purposes and for the benefit of the public.
 4. The Commission is empowered by the City of Lapeer to act as a borrower. For the execution of agreements regarding real property in the name of the Commission, the commission may sue and be sued with respect to those agreements executed or obligations issued by the Commission. This does not preclude the City of Lapeer or Lapeer Housing Commission from asserting a defense of governmental immunity to which it may be entitled under law against any claim made against the City of Lapeer or the Lapeer Housing Commission.
- (I)** Property, income, and operations of the Commission and property of a "qualified entity" that is located in the City of Lapeer are exempt from all taxation by the state or any of its political subdivisions. The City of Lapeer will require the Commission to pay an annual service fee in lieu of all taxes

with respect to projects or facilities of the commission or qualified entities. The fee shall not exceed 10% of the annual shelter rent obtained from the projects or facilities.

For purposes of this section, "qualified entity" means either of the following:

1. A Michigan nonprofit corporation or a Michigan limited partnership having a Michigan nonprofit corporation as its sole general partner, if 1 of the following applies:
 - i. The nonprofit corporation is owned by the Commission;
 - ii. A majority of the members of the board of directors of the nonprofit corporation are elected and removable by the Commission;
 - iii. The Commission is the sole member of the nonprofit corporation.
2. A for-profit corporation, partnership, or company formed or incorporated by the commission for the sole purpose of syndicating low income housing tax credits in connection with the redevelopment of a housing project that has been owned by the Commission, if the Commission maintains oversight responsibility for the management and operation of the project for which low income housing tax credits were syndicated and the for-profit entity does not engage in any other business activity unrelated to the housing project.

(J) The Commission shall have complete control of the entire housing project or projects including the construction, maintenance and operation as fully and completely as if said commission represented private owners. Contracts for construction or purchase of materials entered into by the commission shall not be required to be made through any City of Lapeer purchasing department.

(K) The notes, bonds, or other obligations or any claims of whatever nature against said housing project or projects, shall not be debts or charges against the City of Lapeer or against any members of the commission and no individual liability shall attach for any official act done by any member of such commission.

(L) All references to bonds and the issuance of bonds within Public Act 18 apply to Lapeer Housing Commission.

(M) In the operation or management of housing projects a commission shall at all times observe the following duties with respect to rentals and tenant selection:

1. It may rent or lease the dwelling accommodations therein only to persons of low income;
2. It may rent or lease the dwelling accommodations therein only at rentals within the financial reach of such persons of low income;
3. It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding;
4. It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual net income in excess of any maximum

allowed by the federal government pursuant to federal law or regulation in any contract for financial assistance;

5. It shall prohibit subletting by tenants.

(N) The Lapeer Housing Commission shall not terminate tenancy or contract right to occupy housing except for just cause. Just cause to terminate a tenancy or contract right to occupy housing includes, but is not limited to 1 or more of the following:

1. A failure to comply with the obligations of the lease or the lawful rules and regulations of the housing commission;
2. The use of a unit for any unlawful purpose, including any purpose for which the commission is entitled to recover possession of the premises by summary proceedings under section 5714(1)(b) of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.5714 of the Michigan Compiled Laws;
3. The maintenance of any unsafe, unsanitary, or unhealthful condition in any dwelling unit or in any of the common areas.

(O) To the extent not inconsistent with federal law or regulation, state law, or local ordinance, the housing commission shall adopt and promulgate reasonable rules that establish the following:

1. Eligibility requirements for admission to housing;
2. Obligations of tenants, including regulations for the use and occupation of housing units and common areas;
3. Just cause for the termination of the right of use and occupation, so that a tenant may be clearly apprised of the precise reasons for a termination;
4. Conditions for continued occupancy, taking into account factors including, but not limited to, family size, fluctuations in income, availability of standard accommodations elsewhere, and other relevant matters;
5. Operation of homesteading programs under all of the following:
 - i. The urban homesteading in single-family public housing act;
 - ii. The urban homesteading in multifamily public housing act.

The commission may adopt other rules that are necessary for the just and effective administration of local housing projects constructed and operated as provided by this act. All rules to be valid shall be published in a conspicuous place in each housing project operated by the commission.

(P) This Ordinance shall become effective at 12:01 a.m., Tuesday, May 25, 1971, as an emergency ordinance pursuant to Section 7.3 of the Charter of the City of Lapeer, as revised.

Bentley Street Bridge Project - MDOT Local Bridge Program.

85 2019 04-15

Moved by Atwood. Seconded by Osentoski.

Approve City of Lapeer Municipal Resolution for the Replacement of the Bentley Street Bridge through the Michigan Department of Transportation Local Bridge Program as presented.

CITY OF LAPEER
MUNICIPAL RESOLUTION FOR THE REPLACEMENT OF
THE BENTLY STREET BRIDGE
THROUGH THE MICHIGAN DEPARTMENT OF TRANSPORTATION
LOCAL BRIDGE PROGRAM

WHEREAS, the condition of the Bentley Street bridge has deteriorated to such an extent that replacement is necessary; and

WHEREAS, the budget of the City of Lapeer will not allow for replacement of this bridge without additional funds from other sources;

NOW, THEREFORE, BE IT RESOLVED, that the City of Lapeer requests Michigan Department of Transportation Local Bridge Program Funding for replacement of the Bentley Street Bridge for MDOT's Fiscal Year 2022.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Turrill/Elm East Neighborhood Grant Program Application and Grant Updates.

86 2019 04-15

Moved by Osentoski. Seconded by Atwood.

Approve Resolution to Approve Michigan State Housing Development Authority (MSHDA) Neighborhood Enhancement Program (NEP) City of Lapeer Housing Improvement Grant Application as presented.

RESOLUTION TO APPROVE
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY (MSHDA)
NEIGHBORHOOD ENHANCEMENT PROGRAM (NEP)
CITY OF LAPEER HOUSING IMPROVEMENT GRANT APPLICATION

WHEREAS, the City of Lapeer is interested in the continuing effort to improve the housing stock and provide affordable housing opportunities for its moderate, low and very low income residents; and

WHEREAS, the Lapeer City Commission accepts the recommendation of the City of Lapeer Housing Improvement Department to apply for \$49,995 through the Michigan State Housing Development Authority Neighborhood Enhancement Program (NEP) for City of Lapeer Housing Improvement Grant; and

WHEREAS, the Michigan State Housing Development Authority requires a resolution authorizing the submission of the aforementioned grant application; and

WHEREAS, said City Commission authorizes the Mayor to sign the grant application form and related documents such as Environmental Review and Collaboration/Leverage Agreements as required by MSHDA and allow the Director of Housing and Neighborhood Development to sign related grant documents when allowed by MSHDA as required; and

THEREFORE, BE IT RESOLVED that the Lapeer City Commission authorizes the City of Lapeer Housing Improvement Department to submit the application for funding through the Michigan State Housing Development Authority's Neighborhood Enhancement Program for a City of Lapeer Housing Improvement Grant, authorizes the Mayor and Director of Housing and Neighborhood Development to sign grant related documents on behalf of the City of Lapeer.

Ayes: Atwood, Bostick-Tullius, Osentoski.

Nays: Bennett.

Absent: Marquardt.

MOTION CARRIED. RESOLUTION DECLARED ADOPTED.

Ordinance Amendment – Chapter 68 Medical Marijuana Facilities.

Commissioner Osentoski introduced amendments to Chapter 68 (Authorize and Regulate the Establishment of Medical Marijuana Facilities) of the General Ordinances of the City of Lapeer.

CHAPTER 68

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF
MEDICAL MARIHUANA FACILITIES.

The City of Lapeer Ordains:

§ 68-04(C)(4)(d)

- (d) All City of Lapeer departments are required to sign-off on their review of the ~~provisional~~ marihuana facility license once approval has been determined. The City of Lapeer Departments and licensed professionals that are part of the review and approval process are as follows:

§ 68-04 Requirements and Procedure for Issuing License

D. Extension of Expiration Dates.

Extension of an expiration date for those applicants who hold a Provisional License with the City of Lapeer due to the delay of issuance of a license at the State level may be considered as follows:

- (1) Applicant may provide a written request to the City for an extension of time prior to the expiration date of a City approved Provisional License when such request for extension is premised on either of the following:
- (a) A State decision to deny a pre-qualification application or final application and the applicant is actively appealing such denial as provided under the Act or such other available appellate remedies as allowed by law.
- (b) State delay of issuance of a license for approval of a pre-qualification application or final application.
- (2) The written request shall contain the following:
- (a) Explanation of the reason(s) for the extension.
- (b) Whether the applicant has been denied by the State for a pre-qualification application or final application, and proof the applicant has filed an appeal with the State or as otherwise allowed by law.
- (3) The City Clerk will review the information provided and make a determination as to the accuracy of the information. After said review, the City Clerk may authorize an extension of the expiration date for up to six (6) months. A maximum of three (3) extensions may be awarded.
- (4) Upon determination and authorization by the City Clerk for an extension of the expiration date, the City Clerk shall provide the City Commission information relating to the request and length of extension.

CITY MANAGER'S REPORT

None.

CITY ATTORNEY'S REPORT

None.

UNFINISHED BUSINESS

87 2019 04-15

Moved by Osentoski. Seconded by Atwood.

Appoint Bryan Cloutier to the Zoning Board of Appeals with a term ending April 1, 2022.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

The Departmental Monthly Reports and the Monthly Financial Report for February 2019 were received into the record.

PUBLIC COMMENTS

MAYOR/COMMISSIONER COMMENTS

Commissioner Atwood: Saturday is the first City Superheroes event which is to clean up the area around King Buffet; police will be on hand to give a safety presentation; Rick Rhein Disposal volunteered to collect bags of trash after the event.

Commissioner Bostick-Tullius: Announced it was the consensus of the Commission to schedule the Budget Workshop for Tuesday, April 23, 2019 at 6:00 pm.

ADJOURNMENT

88 2019 04-15

Moved by Bennett.

Adjourn the regular meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Osentoski.

Nays: None.

Absent: Marquardt.

MOTION CARRIED.

The regular meeting adjourned at 6:41 p.m.

Catherine Bostick-Tullius, Acting Mayor

Renee L. Bullen, City Clerk, CMC

Tracey S. Russell, Deputy City Clerk